

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Keven Danow, as Trustee of The Morris Hitzig Recov.Liv. Trust, on behalf of himself and all others similiary situated.

(b) County of Residence of First Listed Plaintiff New York County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Ryan & Maniskas, LLP
Richard A. Maniskas, 995 Old Eagle School Rd., Ste. 311, Wayne, PA
19087, 484-588-5516

DEFENDANTS

Comcast Corp. and Comcast Cable Communications, LLC

County of Residence of First Listed Defendant Phildelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|--|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC Sec. 1693

Brief description of cause:
violations of Electronic Fund Transfer Act.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/17/2016

SIGNATURE OF ATTORNEY OF RECORD

Richard A. Maniskas (85942)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 275 Madison Ave. #1711, New York, NY 10016

Address of Defendant: 1701 John F. Kennedy Blvd, Phila, PA 19103

Place of Accident, Incident or Transaction: New York, NY
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 U.S.C. § 1693, et seq.

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases

(Please specify) 15 U.S.C. § 1693, et seq.

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, Richard A. Maniskas, counsel of record do hereby certify:
- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 11/17/16

Richard A. Maniskas
Attorney-at-Law

85942
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/17/16

Richard A. Maniskas
Attorney-at-Law

85942
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Keven Danow, as trustee of the Morris Hitzig
Rev. Liv. Trust, on behalf of himself and others
v.

CIVIL ACTION

Comcast Corp. and Comcast Cable Comm., LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. (X)
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

11/17/16

Date

Richard A. Maniskas

Attorney-at-law

Keven Danow, Trustee, et al.

Attorney for

484-588-5516

Telephone

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FAX Number

rmaniskas@rmcbslaw.com

E-Mail Address

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

-----X
KEVEN DANOW, AS THE TRUSTEE OF
THE MORRIS HITZIG REVOCABLE
LIVING TRUST,
on behalf of himself and all others similarly situated,

Plaintiff,

v.

COMCAST CORP. and COMCAST CABLE
COMMUNICATIONS, LLC,

Defendants.
-----X

Civil Action No.

**CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

Plaintiff Keven Danow, as the trustee of the Morris Hitzig Revocable Living Trust, on behalf of himself and all others similarly situated, through his undersigned attorneys, files this Class Action Complaint against Defendants and alleges on actual knowledge as to his own acts and on information and belief after due investigation as to all other allegations:

NATURE OF THE ACTION

1. Plaintiff brings this class action against Defendants Comcast Corp. and Comcast Cable Communications, LLC (collectively, "Comcast") on behalf of all former Comcast customers whose bank accounts have been illegally accessed and funds withdrawn subsequent to the termination of the service contract between the parties, and where the former customer owed Comcast no unpaid legitimate charges. The Complaint asserts common law and certain statutory claims, including violations of the Electronic Fund Transfer Act, 15 USC § 1693 *et seq.*, and the New York General Business Law, § 349.

2. Defendants' method of operation and business model includes engaging in unfair conduct aimed at its customers. Comcast's actions have included, *inter alia*, overbilling, misrepresenting the basis of charges it has imposed on customers, and assessing phantom charges which it illegally imposes on its customers.

3. Comcast service has prompted thousands of complaints to the Company, many of which go unresolved. Complaints include the failure to honor advertised deals; switching customers to higher cost services without their consent; cancelling customers without their knowledge and then failing to reinstate them; charging for bogus or non-existent service calls and then refusing to delete the charges. Customers often find it impossible to get any satisfaction. Customer service at Comcast's walk-in facilities is generally plagued by long-lines. Many consumer complaint websites are filled with complaints over Comcast's wrongful business practices. (See, <https://comcast.pissedconsumer.com/>).

4. So also, a recent class action has been filed against Comcast in the United States District Court for the Northern District of California, entitled *Adkins v. Comcast Corporation*, Case No. 3:16-cv-05969-EDL, alleging that Comcast engages in a pattern of misrepresenting fees it charges as taxes or as government mandated, when in fact they were not.

5. In *In the Matter of Comcast Corporation*, before the Federal Communications Commission, File No. Eb-IHD-15-00018079 (October 11, 2016) the FCC found and Comcast agreed to a Consent Decree prohibiting the Company from further violating the Commission's long-standing rule on negative options. Comcast had been loading up its customers with expensive unordered cable programming and hardware, refusing to cancel the unordered items and refusing to refund payments made for the unordered items. This conduct was coupled with a customer support culture which could only be described as uncaring and hostile.

6. On August 1, 2016, the Washington Attorney General filed suit against Comcast.

The press release announcing the suit stated:

AG ANNOUNCES LAWSUIT AGAINST COMCAST FOR MORE THAN \$100 MILLION

First-of-its-kind suit alleges nearly 2 million Consumer Protection Act violations; seeks refunds for more than 400,000 Washingtonians

SEATTLE — Attorney General Bob Ferguson [filed a lawsuit today](#) against cable television and Internet giant Comcast Corporation in King County Superior Court, alleging the company's own documents reveal a pattern of illegally deceiving their customers to pad their bottom line by tens of millions of dollars.

The lawsuit accuses the company of more than 1.8 million violations of Washington state's Consumer Protection Act (CPA), including misrepresenting the scope of its Service Protection Plan, charging customers improper service call fees and improper credit screening practices.

The lawsuit also accuses Comcast of violating the CPA to all of its nearly 1.2 million Washington subscribers due to its deceptive "Comcast Guarantee."

The lawsuit is the first of its kind in the nation — though the Service Protection Plan is a nationwide program and many of the improper practices are used in all of Comcast's markets. The Attorney General's Office brought these issues to Comcast over a year ago, but the company didn't begin to make changes until recently — on the verge of this litigation.

"This case is a classic example of a big corporation deceiving its customers for financial gain," Ferguson said. "I won't allow Comcast to continue to put profits above customers — and the law."

7. The Washington AG lawsuit describes classic Comcast deceptive business dealings. In an effort to get its customers to sign up for its Service Protection Plan (the "SPP") the Company claimed that one would not pay for any service call related to any wiring issues inside one's home, labelling the coverage "comprehensive". Actually, the coverage was very limited and did not apply to wiring inside the walls of a home. Nor did it cover any repairs to customer owned

equipment. The Company claimed it also covered a tech visit to address any Comcast equipment outside the home, although this was already covered under the basic agreement. Approximately 500,000 Washington customers bought the plan, paying Comcast \$73 million. In addition, Comcast charged many customers fees for the repair of Comcast equipment, when it had no right to do so. Finally, the Company demanded deposits from new customers to avoid a credit check but wrongfully ran credit checks anyway. The AG seeks restitution from Comcast of \$100 million.

8. Having engaged in deceptive and unfair trade practices as a core component of its business, Comcast has now targeted former customers, who no longer have any business relationship with Comcast. Comcast has illegally accessed former customers' bank accounts months or years after the end of any business relationship between the parties and absconded with funds on deposit.

9. In the Plaintiff's case, his step-father was a Comcast customer who died in 2014. The Comcast account was cancelled shortly thereafter. However, in 2016 Comcast illegally began to make recurring automatic fund withdrawals from the subject trust bank account (that had been used to pay the Comcast bill up until 2014), despite the fact that the business relationship between the parties had ended *years before* and the decedent owed nothing to Comcast.

10. When Plaintiff called Comcast to complain of the charges made in 2016 to the aforementioned bank account, Comcast refused to address Plaintiff's grievance, on the ground that there was no active account for years, and therefore no business relationship.

11. Plaintiff seeks damages for himself and the Class as defined below and an injunction to prevent Comcast from absconding with further funds from former customers.

JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter of this action as to the Electronic Fund Transfer Act (“EFTA”) claims pursuant to 15 U.S.C. § 1693m(g) and 28 U.S.C. § 1331. Jurisdiction also exists under 28 U.S.C. § 1332(d), the Class Action Fairness Act. Plaintiff’s citizenship (New York) is different from that of Comcast Corp. which is incorporated in Pennsylvania and has its corporate headquarters there as well, and different from that of Comcast Communications, LLC, which is wholly-owned by Comcast Corp., is headquartered in Philadelphia, Pennsylvania, and is a citizen of Pennsylvania. The amount in controversy exceeds the sum of \$5,000,000, as Comcast has over 22 million cable TV subscribers, of whom millions have discontinued service during the relevant period(s), and (as may be inferred from the widespread nature of defendants’ previous billing schemes) have been subjected to unauthorized post-contract billings in amounts totaling many millions of dollars.

13. There is complete diversity between Plaintiff and Defendants and in addition, Plaintiff’s request for injunctive relief has a value or cost in excess of \$75,000, exclusive of fees or costs.

14. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2) because Defendants reside in this district, and this is the District in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated. The Defendants regularly transacted and continue to transact business in this district.

15. This Court has *in personam* jurisdiction over the Defendants because, *inter alia*, Defendants have continuously transacted business in this district over many years; maintained continuous and systematic contacts in this district prior to and during the class period; and purposefully availed itself of the benefits of doing business in this district.

PARTIES

16. Plaintiff Keven Danow is an individual and a resident and citizen of New York. He is the Trustee of the Morris Hitzig Revocable Living Trust. Morris Hitzig, (the “Decedent”) died in 2014. Decedent had a contract with Comcast to deliver television services to Decedent. Upon Decedent’s death, that contract was duly terminated. Plaintiff has not been able to recoup money subtracted from the account at issue, and has suffered real and concrete harm.

17. Defendants operate as media and technology companies providing cable television, telephone and internet services. Their executive offices are located at One Comcast Center, 1701 JFK Boulevard, Philadelphia, PA 19103.

FACTUAL ALLEGATIONS

18. This lawsuit concerns Defendants’ unlawful and improper deductions of money from non-customers by charging their bank accounts long after any business dealings between the parties had terminated. Decedent’s contact with Comcast was terminated by Plaintiff shortly after Decedent’s death in 2014. Yet in 2016 Comcast began automatically deducting finds from the trust account on a recurrent basis illegally.

19. Defendant routinely engages in deceptive and unfair business conduct to extract money from customers to which it is not entitled. Comcast is now targeting former customers who have no business relationship with Comcast. Further, Comcast attempts to insulate itself from addressing the wrongdoing by refusing to assist anyone who is not a current customer, despite the fact that Comcast is absconding with funds from former customers.